

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CASE NO. 02-80810
HON. DENISE PAGE HOOD**

DAMON LAMAR JOHNSON D-2,

Defendant.

_____ /

**ORDER STAYING LITIGATION PENDING SUPREME COURT'S
DECISION IN *BECKLES V. UNITED STATES***

Defendant Damon Lamar Johnson a motion under 28 U.S.C. § 2255 based on the Supreme Court's invalidation of the residual clause of the Armed Career Criminal Act as unconstitutionally vague under the Due Process Clause of the Fifth Amendment. *Johnson v. United States*, 136 S.Ct. 2551, 2563 (2015). In response¹ to the § 2255 motion, the Government seeks to stay the litigation pending the Supreme Court's Decision in *Beckles v. United States*, No. 15-8544, 2016 WL 1029080 (U.S. June 27, 2016) (Mem.) where the Supreme Court granted *certiorari* on the issue of whether *Johnson* should be applied retroactively.

¹ The Government should have filed a separate motion seeking a stay in this matter instead of requesting the stay in its response to the § 2255 motion. See CM-ECF Pol. & Proc. R5 (“[A] response or reply to a motion must not be combined with a counter-motion.”).

Recently, the Sixth Circuit in two published opinions, *In re Embry*, ___ F.3d ___, No. 16-5447, 2016 WL 4056056 (6th Cir. July 29, 2016) and *In re: Antonio D. Patrick*, ___ F.3d ___, No. 16-5353 (6th Cir. Aug. 12, 2016), held that the most appropriate procedure is to hold the cases in abeyance pending the Supreme's Court decision in *Beckles*.

Accordingly,

IT IS ORDERED that the briefing and litigation in this matter is STAYED. The parties will notify the Court when the *Beckles* decision is issued. A briefing schedule will then be issued at that time and the matter will proceed accordingly.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: August 17, 2016

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 17, 2016, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager